

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD J. NICHOLAS,

Plaintiff,

v.

DONALD HEFFNER, et al.,

Defendants.

Civil Action No. 07-93 Erie

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on May 2, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 4], filed on May 23, 2007, recommended that the action be dismissed for failure to prosecute. Plaintiff was allowed ten (10) days from the date of service to file objections and service was made on Plaintiff by certified mail. No objections were filed. After de novo review of the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 12<sup>th</sup> day of June, 2007;

IT IS HEREBY ORDERED that the case is DISMISSED for failure to prosecute.

The Report and Recommendation [Doc. No. 4] of Magistrate Judge Baxter, filed on May 23, 2007, is adopted as the opinion of the Court. The clerk is directed to mark the case closed.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge